

TRANSLATION

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference P1283	FOR FURTHER ACTION	See Form PCT/IPEA/416
International application No. PCT/DE2004/002458	International filing date (<i>day/month/year</i>) 06.11.2004	Priority date (<i>day/month/year</i>) 13.12.2003
International Patent Classification (IPC) or national classification and IPC A22B5/00, G01N33/12		
Applicant CSB-SYSTEM AG		

1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of <u>6</u> sheets, including this cover sheet.
3. This report is also accompanied by ANNEXES, comprising: a. <input type="checkbox"/> (<i>sent to the applicant and to the International Bureau</i>) a total of _____ sheets, as follows: <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> (<i>sent to the International Bureau only</i>) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).
4. This report contains indications relating to the following items: <input checked="" type="checkbox"/> Box No. I Basis of the report <input type="checkbox"/> Box No. II Priority <input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability <input type="checkbox"/> Box No. IV Lack of unity of invention <input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement <input type="checkbox"/> Box No. VI Certain documents cited <input type="checkbox"/> Box No. VII Certain defects in the international application <input type="checkbox"/> Box No. VIII Certain observations on the international application

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

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Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language _____, which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report)*:
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-14 as originally filed/furnished
- pages* _____ received by this Authority on _____
- pages* _____ received by this Authority on _____
- ☒ the claims:
- nos. 1-9 as originally filed/furnished
- nos.* _____ as amended (together with any statement) under Article 19
- nos.* _____ received by this Authority on _____
- nos.* _____ received by this Authority on _____
- ☒ the drawings:
- sheets 1/1 as originally filed/furnished
- sheets* _____ received by this Authority on _____
- sheets* _____ received by this Authority on _____
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages _____
- ☐ the claims, nos. _____
- ☐ the drawings, sheets/figs _____
- ☐ the sequence listing (*specify*): _____
- ☐ any table(s) related to sequence listing (*specify*): _____

* If item 4 applies, some or all of those sheets may be marked "superseded."

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement		
1.	Statement		
	Novelty (N)	Claims 4-9	YES
		Claims 1-3	NO
	Inventive step (IS)	Claims 5-9	YES
		Claims 1-4	NO
	Industrial applicability (IA)	Claims 1-9	YES
		Claims	NO
2.	Citations and explanations (Rule 70.7)		
1	<p>This report makes reference to the following documents:</p> <p>D1: DE 100 50 836 A1 (HINZ, AXEL; EGER, HORST) 27 June 2002 (2002-06-27)</p> <p>D2: DE 199 52 628 A1 (HINZ, AXEL; EGER, HORST) 10 May 2001 (2001-05-10)</p> <p>D3: DE 198 47 232 A1 (CSB-SYSTEM SOFTWARE-ENTWICKLUNG & UNTERNEHMENSBERATUNG AG) 2 December 1999 (1999-12-02)</p> <p>D4: DE 198 37 806 C1 (CSB-SYSTEM SOFTWARE-ENTWICKLUNG & UNTERNEHMENSBERATUNG AG) 20 January 2000 (2000-01-20)</p>		
2.	<p>Although claims 1 and 2 are drafted as separate independent claims, they seem in fact to relate to the same subject matter, the only apparent difference being in the definition of the subject matter for which protection is sought. The claims are therefore not concise and fail to meet the requirements of PCT Article 6.</p>		
3.	<p>Irrespective of the aforementioned lack of clarity, the subject matter of claims 1, 2 and 3</p>		

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Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>is not novel within the meaning of PCT Article 33(2), and the requirements of PCT Article 33(1) are therefore not met.</p> <p>3.1. D1 (the references in parentheses are to D1) discloses a method for the non-invasive determination of the grade, trade value, market value and the quality of a slaughtered animal carcass based on optical image processing (paragraph [0001]), in which method, in the image region in the ham and loin regions with all details, lengths, angles, surfaces, brightness information and/or color information are determined (paragraphs [0001], [0002]), the total weight of a carcass and data from results of cutting tests for fluctuating single-piece yields of non-homogeneous carcasses are determined and included, characterized in that the results data of weight percentages from single-piece yields obtained from cutting tests of a sufficient number of carcasses are correlated with characteristic measured values and parameters determined from the ham and loin region of both halves of a carcass taking into account the total weight, and ratio data is obtained therefrom (paragraph [0007]), and in that during the slaughter operation, a simulation calculation is carried out using the existing ratio data, taking into account the total weight of two corresponding halves of a carcass, and the characteristic measured values and parameters that have been determined specifically in the ham and loin region for said carcass in</p>

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>order to estimate the single-piece yields (paragraph [0009]).</p> <p>The subject matter of claim 1 is therefore not novel (PCT Article 33(2)).</p> <p>3.2. D1 also discloses a method for the non-invasive determination of the grade, trade value, market value and the quality of a slaughtered animal carcass based on optical image processing (paragraph [0001]), in which method, in the image region in the ham and loin regions with all details, lengths, angles, surfaces, brightness information and/or color information are determined (paragraphs [0001], [0002]), the total weight of a carcass and data from results of cutting tests for fluctuating single-piece yields of non-homogeneous carcasses are determined and included, characterized in that the results data of weight percentages from single-piece yields obtained from cutting tests of a sufficient number of carcasses are correlated with characteristic measured values and parameters determined from the ham and loin region of both halves of a carcass, and ratio data is obtained therefrom (paragraph [0007]), and in that during the slaughter operation, a simulation calculation is carried out using the existing ratio data of a carcass and the characteristic measured values and parameters that have been determined specifically in the ham and loin region for said carcass in order to estimate the single-piece yields (paragraph [0012]).</p>

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
	<p>The subject matter of claim 2 is therefore not novel (PCT Article 33(2)).</p> <p>D2 also discloses a similar method which also includes the aforementioned features.</p> <p>4. Claims 3 and 4 do not contain any features which, in combination with the features of any claim to which they refer, meet the PCT requirements for novelty and inventive step (see D3, column 4, lines 18-44; figure 1, and D4, page 3, lines 6-31; figure 1).</p> <p>5. The combination of features in claim 5 is neither known nor obvious from the prior art because the prior art does not include a document in which the weight of the various pieces is determined directly from the measured values of the image analysis.</p> <p>The subject matter of claim 5 is therefore novel (PCT Article 33(2)) and involves an inventive step (PCT Article 33(3)) because this problem has not been previously addressed.</p> <p>6. Claims 6 to 9 are dependent on the aforementioned claim 5 and therefore also meet the PCT requirements for novelty and inventive step.</p>